

07.04.2022
Sl. 01
Court No.29
suvayan
(Allowed)

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

C.R.M. (DB) 81 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 02.03.2022 in connection with **Bhaktinagar** P.S. Case No. **1420 of 2012** dated **17/10/2012** under Sections **364/392/302/201/120B/411/34** of the Indian Penal Code.

And

In the matter of: Tashi Wangdi Sherpa

....petitioner

Mr. Sekhar Kr. Basu, Sr. Adv.
Mr. Rajdeep Mazumder
Mr. Arushi Rathore

...for the petitioner.

Mr. Aditi Shankar Chakraborty
Mr. Nilay Chakraborty
Mr. Ujjwal Luksom

...for the State.

Petitioner prays for bail.

Learned Senior Advocate appearing for the petitioner submits that the petitioner is in custody in excess of 9 years 5 months. He submits that out of 44 prosecution witnesses, only 37 were examined. Last witness of the prosecution was examined on September 17, 2019. The Court is now lying vacant since February 1, 2021. He submits that there is hardly any possibility of the trial concluding any time soon. He refers to an order dated December 1, 2021 passed in CRM 1015 of 2021 and submits that other co-accused who was enlarged on bail by the co-ordinate Bench on the ground of delay in disposal of the trial.

Learned Advocate appearing for the State submits that the petitioner is the principal accused. The next date of trial is on April 25, 2022. He submits that the trial will be concluded expeditiously.

The petitioner is in custody for a period in excess of 9 years 5 months. Out of 44 prosecution witnesses, only 37 were examined. The last prosecution was examined was on September 17, 2019.

There is no explanation why no further witness on prosecution was examined subsequent to September 17, 2019. The Court fell vacant on and from February 1, 2021.

In such conspectus, there is hardly any possibility of the trial concluding any time soon. The Court is also lying vacant. Therefore, directing expeditious disposal of the trial will not provide the desired result.

There is an order by the co-ordinate Bench dated December 1, 2021 passed in CRM 1015 of 2021 enlarging one of the co-accused on bail on the ground of delay of the trial.

In such circumstances, we grant bail to the petitioner.

Accordingly, the petitioner be released on bail upon furnishing a Bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Chief Judicial Magistrate, Jalpaiguri, subject to the condition that during bail he shall appear before the learned trial court on the date fixed till disposal of the trial and shall report before the Officer-in-Charge once in a month till the conclusion of the trial and he shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail without any further reference to this Court.

The application for bail being C.R.M. (DB) 81 of 2022 is, thus, disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

